

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PAUL J. McNALLY, as he is TRUSTEE,
MASSACHUSETTS LABORERS' HEALTH AND
WELFARE FUND and NEW ENGLAND LABORERS'
TRAINING TRUST FUND; JAMES MERLONI, JR.,
as he is TRUSTEE, MASSACHUSETTS LABORERS'
PENSION FUND and MASSACHUSETTS LEGAL
SERVICES FUND; MARTIN F. WALSH, as he is
TRUSTEE, MASSACHUSETTS LABORERS'
ANNUITY FUND,

Plaintiffs

vs.

J. MICHAEL LANDSCAPING, INC.,
Defendant

and

BARLETTA ENGINEERING CORPORATION;
MODERN CONTINENTAL CONSTRUCTION CO.,
INC.; and PEABODY CONSTRUCTION COMPANY,
INC.,

Reach-and-Apply Defendants

C.A. No. 05-11624 RWZ

**AFFIDAVIT OF THOMAS P.V. MASIELLO AS TO
MILITARY SERVICE, INFANCY AND INCOMPETENCE**

1. My name is Thomas P.V. Masiello. I am the Administrator of the Massachusetts Laborers' Benefit Health and Welfare Fund.

2. I make this affidavit pursuant to the provisions of the Soldiers' and Sailors' Civil Relief Act.

3. I have caused careful investigation to be made to ascertain whether J. Michael Landscaping, Inc., the above-named defendant, is within the military service of the United States, and have concluded on the basis of such investigation that it is not.

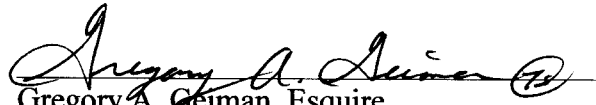
4. I have also caused careful investigation to be made to ascertain whether J. Michael Landscaping, Inc. is an infant or incompetent person, and have concluded on the basis of such investigation that it is not.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS ____ DAY OF JUNE, 2006.

Thomas P.V. Masiello

CERTIFICATE OF SERVICE

This is to certify that a copy of the above Affidavit has been served by first class mail upon the Defendant, J. Michael Landscaping, Inc. by its attorney, Paul Hogan, Esquire at Hogan & Associates, 63 Chatham Street, Boston, MA 02109 and Reach-and-Apply Defendants, Barletta Engineering Corporation at 40 Shawmut Road, Suite #200, Canton, MA 02021, Modern Continental Construction Co., Inc. at 600 Memorial Drive, Cambridge, MA 02139, and Peabody Construction Company, Inc. at 536 Granite Street, Braintree, MA 02184 this 5th day of June, 2006.


Gregory A. Geiman, Esquire

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